

SECTION 2Q .0600 TRANSPORTATION FACILITY PROCEDURES

.0601 PURPOSE AND SCOPE

- (a) The purpose of this Section is to describe the procedures to be followed in applying for and issuing a permit for a transportation facility.
- (b) the owner or developer of a transportation facility subject to the requirements of 15A NCAC 2D .0800 shall obtain a construction only permit following the procedures in this Section. An operation permit is not needed.
- (c) The owner or developer of a transportation facility required to have a permit under this Section shall not commence construction or modification of transportation facility until he has applied for and received a construction permit.

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Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
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.0602 DEFINITIONS

For the purposes of this Section, the following definitions apply:

- (1) “Construction” means any activity following land clearing or grading that engages in a program of construction specifically designed for a transportation facility in preparation for the fabrication, erection, or installation of the building components associated with the transportation facility, e.g. curbing, footing, conduit, paving, etc.
- (2) “Level of Service” means a qualitative measure describing operational conditions with a traffic stream; generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.
- (3) “owner or developer” means any person who owns, leases, develops, or controls a transportation facility.
- (4) “Transportation facility” means a complex source as defined at G.S. 143-213(22) and is subject to the requirements of 15A NCAC 2D .0800.

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.0603 APPLICATIONS

- (a) A transportation facility permit application may be obtained from and shall be filed in writing in accordance with Rule .0104 of this Subchapter.
- (b) Applicants shall file transportation facility permit applications at least 90 days before projected date of construction of a new transportation facility or modification of an existing transportation facility
- (c) The permittee shall file requests for permit name or ownership changes as soon as the permittee is aware of the imminent name or ownership changes.
- (d) A transportation facility permit application shall be made in triplicate on official forms of the Director and shall include plans and specifications giving all necessary data and information as required by the application form.
- (e) A transportation facility permit application containing dispersion modeling analyses that demonstrate compliance with ambient air quality standards or traffic analyses showing a level of service of A, B, C, or D as defined in the highway Capacity Manual, 1985 edition, using planned roadway and intersection improvements from the appropriate state or city department of transportation. The Highway Capacity Manual is hereby incorporated by reference and does not include and subsequent amendments and editions. This manual may be obtained from the Institute of Transportation Engineers, 525 School Street Southwest, Suite 410, Washington, D.C. 20024-2729 at a cost of seventy-seven dollars (\$77.00).
- (f) Whenever the information provided on the permit application forms does not describe the transportation facility to the extent necessary to evaluate the application, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the transportation facility. Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that he considers necessary to determine compliance with applicable standards including traffic level of service.
- (g) A non-refundable permit application fee shall accompany each transportation facility permit application. The permit application fee is described in Section .0200 of this Subchapter.

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.0604 PUBLIC PARTICIPATION

- (a) Before approving or disapproving a permit to construct or modify a transportation facility, the Director shall provide public notice for comments with an opportunity to request a public hearing on the draft permit.
- (b) The public notice shall be given by publication in a newspaper of general circulation in the area where the transportation facility is located.
- (c) The public notice shall identify:
 - (1) the affected facility;
 - (2) the name and address of the permittee
 - (3) the name and address of the person to whom comments and requests for public hearing are to be sent;
 - (4) the name, address, and telephone number of Divisional staff from whom interested persons may obtain additional information, including copies of the draft permit, the application, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to Division that are relevant to the permit decision;
 - (5) a brief description of the proposed project;
 - (6) a brief description of the public comment procedures;
 - (7) the procedures to follow to request a public hearing unless a public hearing has already been scheduled; and
 - (8) the time and place of any hearing that has already been scheduled.
- (d) The public notice shall allow at least 30 days for public comments.
- (e) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the public hearing.
- (f) The Director shall make available for public inspection in at least one location in the region affected, the information submitted by the permit applicant and the Division's analysis of that application.
- (g) Any persons requesting copies of material identified in Subparagraph (c)(4) if this Rule shall pay ten cents (\$0.10) a page for each page copied. Confidential material shall be handled in accordance with Rule .0107 of this Subchapter.

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.0605 FINAL ACTION ON PERMIT APPLICATIONS

- (1) The Director may
 - (1) issue a permit containing the conditions necessary to carry out the purposes of G.S. Chapter 143, Article 21B;
 - (2) rescind a permit upon request by the permittee; or
 - (3) deny a permit application when necessary to carry out the purposes of G.S. Chapter 143, Article 21B.
- (2) The Director shall issue a permit for the construction or modification of a transportation facility subject to the rules in 15A NCAC 2D .0800 if the permit applicant submits a complete application and demonstrates to the satisfaction of the Director that the applicable standards will not be exceeded.
- (3) The Director shall issue a permit from a period of time necessary to complete construction, but such period shall not exceed five years.
- (4) The Director shall not approve a permit for a transportation facility that:
 - (1) interferes with the attainment or maintenance of any applicable standard,
 - (2) results in a contravention of applicable portions of the implementation plan control strategy, or
 - (3) is demonstrated with dispersion modeling to exceed an applicable standard.

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.0606 TERMINATION, MODIFICATION AND REVOCATION OF PERMITS

(a) The Director may terminate, modify, or revoke and reissue any permit issued under this Section if:

- (1) The information contained in the application or presented in support therefor is determined to be incorrect;
- (2) The conditions under which the permit was granted have changed;
- (3) Violations of conditions contained in the permit have occurred;
- (4) The permittee refuses to allow the Director or his authorized representative upon presentation of credentials:

to enter, at reasonable times and using reasonable safety practices, the permittee's premises where any records are required to be kept under terms and conditions of the permit;

- (1) to have access, at reasonable times, to any copy or records required to be kept under terms and conditions of the permit;
- (2) to inspect, at reasonable times and using reasonable safety practices, the transportation facility and any monitoring equipment or monitoring procedures required in the permit; or
- (3) to sample, at reasonable times and using reasonable safety practices, emission from the facility; or

(5) The Director finds that modification or revocation of a permit is necessary to carry out the purpose of G.S. Chapter 143, Article 21B.

(a) The construction or continuation of construction of a transportation facility after its permit has been revoked is a violation of this Section, G.S. 143-215.108, and G.S. 143-215.109.

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.0607 APPLICATION PROCESSING SCHEDULE

(a) The Division shall adhere to the following schedule in processing applications for transportation source permits:

- (1) The Division shall send written acknowledgment of receipt of the permit application to the applicant with 10 days of receipt of the application.
- (2) The Division shall review all permit applications within 30 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes. The Division shall notify the applicant by letter:

(B) stating that the application as submitted is complete and specifying the completeness date,

(C) stating that the application as submitted is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Division, or

(D) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application

If the Division does not notify the applicant by letter dated within 30 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information.

- (1) The Division shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its pollution abatement equipment, or the facility. The Division shall complete the technical review within 90 days of receipt of complete application or 10 days after receipt of requested additional information, whichever is later.
- (2) The Director shall send the draft permit to public notice within 60 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.

- (3) If the draft permit is not required to go to public hearing, the Director shall complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.
- (4) If the draft permit is required to go to public hearing as a result of request for public hearing under Rule .0604(e) of this Section, the Director shall:
 - (E) send the draft permit to public hearing within 45 days after approving the request for the public hearing, and
 - (F) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing
- (b) The days that fall between the sending out a letter requesting additional information and receiving that additional information shall not be counted in the schedules under Paragraph (a) of this Rule.
- (c) The Director may return at any time applications containing insufficient information to complete the review.

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